

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 2, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: Rep. Douglas Mood (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 90, 2/22/2001; SB 228,
2/22/2001
Executive Action: HB 123

HEARING ON SB 228

Sponsor: SENATOR PETE EKEGREN, SD 44, CHOTEAU

Proponents: Mike O'Connor, Public Employees Retirement
Administration
Bert Obert, Montana Highway Patrol
Tom Butler, Montana Highway Patrol
Pam Busey, Attorney General

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.0}

SENATOR PETE EKEGREN, SD 44, CHOTEAU said this is a simple but important bill. It deals with equality and was requested by the Montana Highway Patrol. They are asking for same retirement guidelines as Sheriffs Retirement System (SRS), Montana Police Retirement System and Firemen Retirement System. These three programs were changed in 1985 to allow retirement at age 50 with twenty years of service. Prior to 1985 there was no age restriction.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 4.9}

Mike O'Connor, Public Employees Retirement Administration stated the Public Employees Retirement Board is in support of the bill. There are 261 retirees and 190 active members this bill would effect those hired after July 1, 1985. This bill would remove the 50 year age limit that was added in 1985. The interim committee reviewed the various retirement plans and decided they needed to make the retirement guidelines standard. There is a quality issue in making all public retirement systems the same and would bring the Patrol System into parity with the other systems. Fiscally, this bill combined with the HB 294, the 3% Guaranteed Annual Benefit Adjustment would create a slight unfunded liability which would be paid out in 6 ½ years.

Bert Ebert, Montana Highway Patrol said the Highway Patrol is authorized 240 uniformed officers and are currently down about 12. They are responsible for enforcing all laws, not just traffic laws.

Their job requires back up support on many crimes and working hand in hand with other agencies who enjoy the 20 year retirement option. Initially in the early 80's when the current language was drafted, it was to address concerns that did not materialize. The retirement system is solid and will remain solid. Most of the new hires are in their 30's, 40's and 50's. It is getting more and more difficult to get employees who are willing to work weekends, nights and holidays, so the recruiting process takes more time and more effort. He submitted a brochure on Montana Highway Patrol and what they do. **EXHIBIT (sth48a01)**

Tom Butler, Montana Highway Patrol submitted and discussed written testimony. **EXHIBIT (sth48a02)**

Pam Busby, Attorney General said they rise in support the bill. The patrol officers work incredibly long hard hours. They have a very difficult job and serve a critical role in Montana's criminal justice system. This bill is simply about fairness in the law enforcement systems.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 14.7}

REPRESENTATIVE SMITH asked if this bill would encourage people to retire at the age 50 or to stay longer. Bert Ebert replied he does not believe it will encourage people to retire. Most of the people who are eligible are not leaving. **REPRESENTATIVE SMITH** asked why this was changed in 1985. Bert Ebert said in the early 80's the economy wasn't the best in Montana and they wanted to maintain a solid work force and felt the 20 year retirement would drain the retirement fund. This did not happen.

REPRESENTATIVE BROWN asked to be given more information on the unfunded liability. **Mike O'Connor** The unfunded liability will be paid off in six and one-half years with the additional contributions.

REPRESENTATIVE HEDGES said this bill cause a potential 6 ½ year unfunded liability. Next session they will probably return wanting to opt into the 25 year DROP program. He then asked what that would do to the program. **Mike O'Connor** said the way the DROP was designed in the Police Retirement System was to be cost neutral, so it would not have an effect on the funding of the system. **REPRESENTATIVE HEDGES** asked if the Highway Patrol Retirement Program will automatically be eligible for the DROP program. Mike

O'Connor replied no, it would take legislation to create a DROP program for the Highway Patrol Retirement.

REPRESENTATIVE BROWN asked if it has been the goal of the legislature for the past few years to have like systems merge so there will only be 5 retirement plans verses 15. Mike O'Connor said over the last 3 or 4 sessions they have tried to make the systems similar because of the nature of work being similar. Ultimately the goal would be to consolidate them into one system.

REPRESENTATIVE MASOLO said she participated in the departments "ride along program." She asked if the reason they are down 12 officers is because of recruitment or funding. Bert Ebert replied no, it was just because of the turnover every year. There are about 20-25 officers every year who either quit or retire. This year there were 4 eligible to retire and the rest left for other reasons.

CHAIRMAN WALTERS said there are about 4 different retirement systems in enforcement. He then asked if there was any information from surrounding states about their retirement systems. Mike O'Connor replied generally there is more than one public safety system, but there are states that have combined into one system.

CHAIRMAN WALTERS asked if it would be an advantage to have one public retirement system. Mike O'Connor said administratively it would help. They have to remember the laws for 7 or 8 retirement systems and make sure when they are counseling members they are talking about the right retirement system. It is difficult to remember the legal plan designs of each system. **CHAIRMAN WALTERS** then asked if would be difficult to consolidate the system. Mike O'Connor replied an actuary would have to look at the ramifications of consolidating them.

REPRESENTATIVE LEHMAN asked if the reason of hiring more individuals at the age of 30+ is due to maturity that might be required for the particular job posted. Bert Ebert replied that is exactly true.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 30.6}

SENATOR EKEGREN said the average age of retirement of the officers hired before 1985 is 53 1/4 years old with 26 years of service.

This was the main concern of the Legislators.

HEARING ON SB 90

Sponsor: SENATOR PETE EKEGREN, SD 44, CHOTEAU

Proponents: Trygve F. Dahle III, Intelicom Incorporated
William Campbell, The Hunting Shack, Inc
Tom Wells, Attorney
John Karst, Moore North American Printing Co.

Opponents: None

Informational: Sheryl Olson, Department of Administration
Nick Rotering, Department of Transportation

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 0.0}

SENATOR PETE EKEGREN, SD 44, CHOTEAU stated the bill is at the request of the Department of State Administration. The bill is the result of SJR 9 to study the procedures that govern the development, administration and enforcement of private contracts. The goals is to help Montana businesses by replacing the preference that hinders businesses trying to do business outside of Montana.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 1.7}

Trygve F. Dahle III, Intelicom, Inc. submitted and discussed written testimony. **EXHIBIT**(sth48a03)

William Campbell, The Hunting Shack, Inc submitted and discussed written testimony. **EXHIBIT**(sth48a04)

Tom Wells, Attorney said he sees the impact of the preference with his clients, when they sell to various state governments. This bill and the preferences pose a real question to Montana. "How

are we going to grown?" They are an impact on Montana's economy and they have to decide how to over come that. He then asked if this can be done by selling to ourselves or is it going to be done by export and get other peoples money to help Montana.

John Karst, Moore North American Printing Co. stated they are hurt by the current preference law. They compete primarily with Montana based independent forms distributors. Even though he lives in Montana, the company is not incorporated in the state of Montana, therefore they currently do not qualify for any preferences. They employee more people in the state of Montana than most independent distributors and therefore pay more taxes and make a larger economic impact on the state. He does not understand what other distributors are contributing to the economy that they are not. They do not manufacture any of their product in state, but neither do the other Montana based distributors. Occasionally the current law costs the state money because they have to accept a higher bid than his because of the preference for in-state distributors. Therefore they have to pay more for the product because of the preference.

Informational Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 12.4}

Sheryl Olson, Department of Administration submitted and discussed written testimony. **EXHIBIT** (sth48a05)

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 18.8}

REPRESENTATIVE LEE asked what other states have these laws. Sheryl Olson replied Alaska, Hawaii, Louisiana, New Mexico, South Carolina, West Virginia and Wyoming. **REPRESENTATIVE LEE** then asked how many of Montana's contracts are being awarded out of state. Sheryl Olson said 80% of all the purchase orders issued go to Montana addressed companies, but only 20% of the dollar value of those purchases stay in state because they deal with large out of state corporations like Microsoft. **REPRESENTATIVE LEE** commented that they are not setting a good example as a state and helping their own business. Sheryl Olson said these preferences were originally designed to help keep business in state, but the market has changed and they found themselves buying products from national companies that did not manufacture here and that is where the money ended up going to make those purchases.

REPRESENTATIVE RASER asked why there was interest in changing the law to an in state preference law. Sheryl Olson said her department has been concerned with this for many years because they see businesses being hurt. The real interest took place when Mr. Dolly presented his issue to the interim committee. What happened to him was the State of New York refused to do business with him because he was located in Montana. **REPRESENTATIVE RASER** then asked if this was a concern for a lot of business or just a few. Sheryl Olson replied they have heard from companies over the years that are hurt by this. **REPRESENTATIVE RASER** asked if there have been business that are saying they will loose business without the in state preference. Sheryl Olson said when this hearing took place on the Senate side, The Chamber of Commerce came to support the bill. They polled all their members and the majority of their members supported eliminating the preference. The National Federation of Independent Businesses also polled their members and found their members agreed the preferences were doing more harm than good.

REPRESENTATIVE LEHMAN clarified the preference percentage in Montana. Sheryl Olson said it is 3% preference for a Montana resident and a Montana resident offering a Montana made product gets a 5% preference. Printers get 8% preference.

REPRESENTATIVE DELL asked what impact this had on the Made in Montana program. Sheryl Olson said it has no impact other than they would lose the 5% preference for their Montana made products.

REPRESENTATIVE RIPLEY asked how this bill would effect contracts with foreign countries such as Canada that does construction on the highways. Sheryl Olson replied this bill does not effect construction law at all and only has to do with procurement of goods and services. The Montana Contractors Association is in support of this bill.

REPRESENTATIVE LEHMAN asked for a point of clarification on the retaliation by the 34 states. Sheryl Olson said currently it is only the State of New York that will not do business with contractors coming from Montana. Thirty four. other states simply apply the 3, 5, or 8 percent against the bid of companies from Montana when bidding for state government contracts in those other states. **REPRESENTATIVE LEHMAN** clarified if the bill were approved, it will only effect 1.6% of the business the state does. Sheryl Olson said no, it doesn't make a difference. It only makes a

difference when they leave the state borders.

REPRESENTATIVE LEE asked if this only applies 1.6% of the time in the state contracts, how can you say businesses go out of state and are able to get other state contracts. Sheryl Olson said the reason why it only happens 1.6% of the time is because they cannot apply preference anytime any federal dollars are involved. **REPRESENTATIVE LEE** commented the whole thing makes absolutely no sense for companies who can't get their own state contracts yet they are able to go out of state and get other contracts.

REPRESENTATIVE SMITH asked if the reason Fish & Game gets all there printing done out of state is because it is federal money. Sheryl Olson said Montana printers get a 8% preference and even with that preference they are not low enough to receive the contract.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 10.3}

SENATOR EKEGREN submitted information on a Review of the Montana State Contracting Laws and Procedures **EXHIBIT**(sth48a06) and a copy of a Special Member Ballot on eliminating the current bidder preference. **EXHIBIT**(sth48a07)

EXECUTIVE ACTION ON SB 205

{Tape : 2; Side : A; Approx. Time Counter : 14.2}

Motion: REP. MASOLO moved that SB 205 BE CONCURRED IN.

Discussion:

REPRESENTATIVE DELL commented this is a good solid bill. Having served on the ethics committee the past two sessions, he felt there needed to be clarification.

REPRESENTATIVE MASOLO stated this bill will help clarify things and thinks it is a good law.

REPRESENTATIVE SCHRUMPF said this will clarify things and make it simpler, because if they don't do something no one will have a treasurer.

HOUSE COMMITTEE ON STATE ADMINISTRATION

March 7, 2001

PAGE 9 of 10

REPRESENTATIVE LENHART commented he knew of one person who understood all the reports he had to send in.

Motion/Vote: REP. MASOLO moved that SB 204 BE CONCURRED IN. Motion carried unanimously. 18-0

ADJOURNMENT

Adjournment: 9:25 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth48aad)